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PRESIDENT & CEO

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May 3, 1996

via Hand Delivery


William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Notice of oral ex parte presentation
PR Docket No. 93-144, PP Docket No. 93-253
800 MHz SMR Licensing

Dear Mr. Caton:

On May 3, 1996, the American Mobile Telecommunications Association, Inc. (AMTA), SMR WON and Nextel Communications, Inc. made a joint ex parte presentation concerning the above-captioned proceeding to members of the General Counsel's office, including Suzanne Tetreault, Peter Tenhula, Lisa Higginbotham and Sev McPete. The written presentation consisted of a summary of the parties' joint Reply Comments in the above-referenced proceeding, representing an industry consensus position on the licensing of the lower 230 800 MHz specialized mobile radio (SMR) channels. The meetings consisted of discussions of the industry consensus position.

Pursuant to Section 1.1206 of the Commission's Rules and Regulations, 47 C.F.R. § 1.1206, two copies of the written presentation, titled "Discussion Points", are enclosed for the record.


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800 MHz SMR (PR Docket No. 93-144)

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DISCUSSION POINTS
(from the 800 MHz Coalition)

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1. The Coalition represents a large majority of 800 MHz SMR operators of all sizes, including local analog dispatch operators as well as wide-area licensees seeking to implement regional or nationwide digital CMRS systems. Further, the Coalition consensus position represents agreement for the first time among parties that have long had sharp differences on the issues in this proceeding. The Coalition respectfully submits that approval of its position would result in near-unanimous industry support for EA-based licensing of all 430 SMR channels in this band, as well as for auctions and the Commission's decision to permit mandatory retuning/relocation of upper-band incumbents.
2. The Coalition supports adoption of rules governing geographic-based licensing of the remaining 230 SMR channels in continuity with the Commission's decision to auction the upper 200 channels of the current 800 MHz SMR frequency band.
3. Geographic-area licensing of the lower 230 SMR channels, preferably on an EA basis, must enable incumbents, including upper-band retunees/relocatees, to continue serving the public with reasonable opportunities for expansion. Therefore, the Coalition advocates a channel-by-channel, EA-by-EA settlement process that will allow existing licensees to obtain geographic licenses on current channels within a defined time frame. These full-market settlements would avoid mutually exclusive applications for these channels. Auctions would be used to assign channels on which there are no incumbents or as to which no settlement has been reached.
4. The proposed EA settlement process is fully consistent with the Commission's competitive bidding authority under Section 309(j) of the Communications Act. The FCC has been directed to use threshold eligibility limitations and negotiation to avoid mutually exclusive situations. The proposed settlement, then auction, process would speed transition from cumbersome site-specific licensing; it would promote rapid service to the public, and it would allow new entrants to obtain licenses on channels not already assigned to incumbents.
5. In defining "comparable facilities" for purposes of retuning/relocating upper-band incumbents, the FCC should require that a retuned system "perform tomorrow at least as well as it did yesterday." Retuning/relocation should provide the same number of channels in the 800 MHz band, the same service configuration, and must include the entire "system", to be defined as a base station(s) located within the EA and those mobiles that regularly operate on the station(s).

6. The Coalition advocates cost sharing and cooperation among all upper-band EA licensees seeking to retune/relocate an incumbent system. Where one EA licensee is not prepared to participate at the appropriate time, others should be allowed to retune/relocate all the incumbent's channels, thus succeeding to the incumbent's rights on those channels. This device would prevent unnecessary delays in the retuning/relocation process.

7. The Coalition supports licensing of the 80 interleaved SMR Category channels in 16 five-channel blocks, as currently allocated and as proposed by the Commission. The 150 formerly General Category channels should be auctioned in three 50-channel blocks, excluding those frequencies in each block for which full market settlements have been reached. The Coalition supports creation of an entrepreneurial set-aside consisting of the 80 SMR channels and one 50-channel block; the remaining two 50-channel blocks should remain available to bidders of all sizes.

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